IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.9440 of 1997

Dated: October 31, 2006

Between:

Vutukuri Venkata Pichaiah, S/o. Satyanarayana, Aged 35 years, R/o. Narasaraopet, Guntur District, and others.

… Petitioners

And

The District Collector, Guntur, and another.

… Respondents

Order:

This Writ Petition has been filed questioning the notification and declaration issued under Sections 4(1) and 6 of the Land Acquisition Act, 1894 ('the Act' for brevity) for acquiring the lands of the petitioners.

2. Heard learned counsel for petitioners and learned Government Pleader for Land Acquisition appearing for the respondents.

3. Petitioners claim to be the owners and possessors of agricultural lands covered by Sy.Nos.300/C, 342-A1, 343-A, 343-B and 343/C1 of

Kesanapalli village, Narasaraopet Mandal, Guntur District. The aforesaid lands admeasuring Ac.9.70 cents were notified for acquisition for public purpose, namely, for providing house sites to members of Scheduled Castes and Scheduled Tribes as early in 1996. Notification under Section 4(1) of the Act was issued on 30-12-1995. After conducting enquiry as contemplated under Section 5-A of the Act, declaration was published on 25-09-1996.

4. Learned counsel for petitioners contends that the notification and declaration are being questioned mainly on the ground that though the District Collector is empowered to issue notification under Section 4(1) of the Act, by virtue of the provisions under Act 22/76 (A.P. Amendment Act), in the absence of any corresponding amendment to Section 5-A of the Act, the second respondent is not competent to hold an enquiry under Section 5-A of the Act. He further contends that though valid and tenable objections were raised in the enquiry under Section 5-A of the Act, namely, there are other Government lands which are suitable for acquisition and there are also lands belonging to big ryots; leaving those lands, the lands of the petitioners herein, who are small farmers, were notified for acquisition.

5. Though the Writ Petition is of the year 1997, no counter affidavit has yet been filed.

6. With regard to the objection of the authority of the second respondent is concerned, I do not find any substance in the submission of the learned counsel for the reason that in view of the provisions under Act 22/76 (A.P. Amendment Act), the District Collector is competent to notify the lands under the Act for the purpose of providing house sites to Scheduled Castes and Scheduled Tribes. At the same time, under Section 5-A (2) of the Act, he himself may

conduct enquiry or also authorize any person on his behalf to conduct enquiry. Hence, I do not find any illegality in the enquiry conducted by the second respondent in view of the authorization given by the first respondent to him. With regard to other objections specifically raised in the affidavit filed in support of the Writ Petition, namely, there are other Government lands which are suitable for acquisition and there are also lands belonging to big ryots; leaving those lands, the lands of the petitioners herein, who are small farmers, were notified for acquisition, it is to be seen that the same have not been contraverted by the respondents by filing a counter affidavit. Further, the notification was issued in the year 1997, i.e. about 10 years back.

7. In view of the allegations made in the affidavit filed in support of the Writ Petition that petitioners are small farmers and other Government lands and lands belonging to big ryots are available for acquisition, I deem it appropriate to set aside the declaration issued under Section 6 of the Act and direct the respondents to conduct enquiry under Section 5-A of the Act, afresh, by issuing notice and opportunity to the petitioners.

8. The Writ Petition is allowed to the extent indicated above. No order as to costs.

JUSTICE R. SUBHASH REDDY.

October 31, 2006
MRR